

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

FRANK ARANT,  
Plaintiff,  
vs.  
J. P. MORGAN CHASE, INC., *et al.*,  
Defendants.

Case No. 2:12-cv-01386-JCM-GWF

## ORDER

This matter comes before the Court on Plaintiff Frank Arant's ("Plaintiff") Motion for Extension of Time to File Proof of Service (#22), filed on July 8, 2013.

Plaintiff filed his original Complaint (#1) on August 6, 2012, and proof of service was originally due by December 4, 2012. On December 3, 2012, Plaintiff filed his first Motion to Extend Time to File Proof of Service (#5), in which he represented an impending Ninth Circuit opinion may require amendment of his Complaint. The Court entered an Order (#36) on December 4, 2012 extending the deadline to January 4, 2013. Plaintiff filed a second Motion to Extend (#7) on January 6, 2013, making the same representation. The Court granted the Motion (#7) and extended the deadline to February 11, 2013. *See January 11, 2013 Order, Doc. #8.* Plaintiff filed a third Motion to Extend (#9) on February 13, 2013. The Court ordered Plaintiff to file a supplement detailing the case number and briefing schedule of the subject Ninth Circuit appeal. *See February 14, 2013 Order, Doc. #10.* Plaintiff filed his Supplement (#11) on February 16, 2013, and the Court again extended the deadline for proof of service to March 22, 2013. *See February 20, 2013 Order, Doc. #12.* Plaintiff filed an Amended Complaint (#13) on March 14, 2013. To date, no proof of service has been filed as to any defendants.

1       Service of process on a defendant must be made within 120 days of filing a complaint. *See*  
2 Fed. R. Civ. P. 4(m). The filing of an amended complaint does not restart the 120-day period  
3 provided by Rule 4(m), however, “except as to those defendants newly added in the amended  
4 complaint.” *Carr v. Int’l Game Technology*, 770 F.Supp.2d 1080, 1100 (D. Nev. 2011) (citing  
5 *Bolden v. City of Topeka*, 441 F.3d 1129, 1148 (10th Cir. 2006)). If service is not timely made, but  
6 the plaintiff shows good cause for the defective service, courts must extend the time period for  
7 service. *In re Sheehan*, 253 F.3d 507, 512 (9th Cir. 2001). “At a minimum, ‘good cause’ means  
8 excusable neglect.” *Boudette v. Barnette*, 923 F.2d 754, 756 (9th Cir. 1991). In the absence of  
9 good cause, courts still retain the discretion to grant an extension. *Mann v. Am. Airlines*, 324 F.3d  
10 1088, 1090 (9th Cir.2003).

11       Here, all the defendants in the original and amended complaints are identical, and Plaintiff’s  
12 Amended Complaint added no new defendants. Therefore, the filing of the Amended Complaint  
13 did not restart the Rule 4(m) deadline, and proof of service was due by March 22, 2013. *See*  
14 *February 20, 2013 Order, Doc. #12*. The Court accordingly construes the instant Motion as  
15 seeking an extension of the March 22, 2013 deadline. In an effort to show good cause for the  
16 defective service, Plaintiff merely states that he “encountered difficulty” serving Defendant Express  
17 Capital Lending. Plaintiff makes no representations regarding the defective service on the other  
18 defendants in this case, and does not detail the extent to which he attempted to effectuate service.  
19 Plaintiff’s original Complaint was filed nearly a year ago, and the majority of the defendants named  
20 are well-known national corporate entities. The Court therefore finds that Plaintiff has not shown  
21 good cause to extend the proof-of-service deadline. Furthermore, in light of the three previous  
22 extensions already granted, the Court declines to exercise its discretion to extend the deadline  
23 absent good cause. Accordingly,

24       **IT IS HEREBY ORDERED** that Plaintiff’s Motion to Extend Time to File Proof of  
25 Service (#22) is **denied**.

26 ...

27 ...

28 ...

**IT IS FURTHER ORDERED** that, within 14 days of the date of this Order, Plaintiff shall file a response to this Order showing cause why the Court should not dismiss the Amended Complaint.

DATED this 11th day of July, 2013.

*George Foley Jr.*  
GEORGE FOLEY, JR.  
United States Magistrate Judge